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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,033	07/08/2003	Hirohito Watanabe	239929US3	6638
22850	7590	08/29/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			KANG, JULIANA K	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,033

Applicant(s)

WATANABE ET AL.

Examiner

Juliana K. Kang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/23/05 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

The request filed on June 23, 2005 for a Request for Continued Examination (RCE) under 37 CFR 1.114 is acceptable and a RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4, 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freychet et al (U.S. Patent 5,119,464) and further in view of James, II (US 2003/0169179 A1).
3. Regarding claims 1 and 12, Freychet et al disclose an optical fiber cable comprising: optical fiber cores (1); a protective layer (see column 1 lines 7-12) over the optical fiber core; a plurality of distinctive layers disposed intermittently in a longitudinal direction of the optical fiber core between the optical fiber core and the protective jacket (see column 1 lines 7-12), each distinctive layer comprising fine drops of ink and taking a substantial linear shape wherein a ratio of a total of the distinctive layers to a length of the distinctive optical fiber appears to be less than 1:5 (see Fig. 2). Please note that Freychet et al teach that the spraying of ink is preferably perpendicular to the direction of forward movement of the fibers (see column 1 line 45-50), this inherently provides the distinctive layer of substantial linear shape. However, Freychet et al do not teach that the protective layer is a colored layer. James, II teaches a protective layer in an optical fiber wherein the protective layer may be color coded or otherwise differentiated, labeled or marked with appropriate usage or material of

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construction notations, or provided with some other product indicia known in the art (see [0037]). Having distinctive colored optical fiber cable would make the user easier to recognize one optical cable from another. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use color protective layer in Freychet et al as taught by James, II to make the optical fiber cable easier to use.

Regarding claims 3 and 4, Freychet et al teach that an interval between the distinctive layers can be varied (see column 2 lines 29-32). Thus, having any intervals including the claimed range of 1mm to 200mm in Freychet et al would have been obvious as long as the fibers can be identified. Also having any length of the distinctive layers including the ones that falls in the range of 1 mm to 15 mm would also have been obvious to one having ordinary skill in the art as long as the fibers can be identified.

Regarding claims 2 and 6, Freychet et al teach the distinctive layers that are formed by ink and Freychet et al and James, II teach the colored layer, however Freychet et al and James, II do not teach the specific thickness of the distinctive layers, a thickness of the colored layer and a size of the ink drops. It appears that the dimensions of the elements depend on the types of ink head and the speed of the fibers in Freychet et al. It would have been an obvious matter of design choice to use such dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4, 6 and 12 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakamura et al (US 2003/0044136 A1) teach an optical fiber having a protective layer with thickness of 10 $\mu$ m.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juliana K. Kang whose telephone number is (571) 272-2348. The examiner can normally be reached on Mon. & Thur. 10:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rod Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JULIANA KANG  
PRIMARY EXAMINER 8/26/05